

## **Article V, General Provisions**

### **Sec. 05.01 Conformance Required.**

All land, buildings, structures, or parts thereof, shall hereafter be erected, constructed, reconstructed, altered, maintained, used, or occupied in conformity with the provisions of this Ordinance.

### **Sec. 05.02 Buildings under Construction.**

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and upon which building actual construction has been diligently carried on, and provided, further, that such building was completed within two years from the date of passage and publication of this Ordinance.

### **Sec. 05.03 Building Grades.**

Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. A sloping grade, beginning at the sidewalk level, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building, and from the rear wall of the building to the rear lot line; however, this shall not prevent the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the runoff of surface water to flow onto the adjoining properties. When a new building is constructed on a vacant lot between the existing buildings or adjacent to an existing building, the existing established grade shall be considered in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent properties. Grades shall be approved by the Street Commissioner or his designee.

### **Sec. 05.04 Building to Be Moved.**

Any building or structure, which has been wholly or partially erected on any property, shall not be moved to and be placed upon any other property in this Village until a permit to use such

building or structure, after being moved, shall have been secured under this Ordinance. Any such building or structure shall fully conform to all the provisions of this Ordinance, in the same manner as a new building or structure. Before a permit may be issued for moving a building or structure, the Zoning Officer shall inspect same and shall determine if it is in a safe condition to be moved, whether it may be reconditioned to comply with the building code and other Village requirements for the use and occupancy for which it is to be used and whether it will be of similar character with the buildings in the area where it is to be moved.

**Sec. 05.05 Location of Buildings.**

Except where otherwise provided for in this Ordinance, every dwelling shall be located on a lot abutting upon a street or permanent easement of access to a street, other than an alley. No dwelling shall be built upon a lot needing access to a street unless said lot has a frontage of not less than 20 feet upon a street or upon a permanent easement of access to a street. Such easement of access shall have a width throughout of not less than 20 feet. In addition, adequate space shall be provided for emergency vehicle access to all buildings.

**Sec. 05.06 No Implied Right of Completion.**

The construction of a building or structure to a less height, area, or bulk than originally planned, prior to the effective date of this Ordinance, does not entitle its owner to later construct such building or structure to its full height, area, and bulk. Any such building or structure shall be treated no differently than any other building or structure and shall conform to all provisions of this Ordinance applicable thereto.

**Sec. 05.07 Garage, Basement, or Other Accessory Dwellings.**

Garages, basements, or other areas which could accommodate accessory dwellings shall not be occupied for dwelling purposes unless they comply with all the provisions of this Ordinance.

**Sec. 05.08 Accessory Dwellings in Nonresidential Districts.**

When a dwelling occupies a space above a business use, such dwelling unit shall provide a minimum floor area of not less than 720 square feet.

**Sec. 05.09 Accessory Buildings in Residence Districts.**

- (a) An attached accessory building, including a carport attached to a principal building, on a lot, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, for the purpose of this Ordinance, as an attachment between the garage or carport and the main building, shall be considered as part of the main building, but breezeways shall not be considered as constituting liveable floor area.
- (b) An accessory building and garage unless attached and made a part of the principal building on a lot as above provided shall not be nearer than 10 feet to the principal building.
- (c) A detached accessory building or garage shall not exceed one story or 15 feet in height, shall not exceed 50 percent of the floor area of the principal building, shall be located behind the front line of the principal building, and shall not be nearer than five feet to any lot line, provided that where the side yard abuts upon a side street, such accessory building shall not extend nearer to the side street lot line than the main portion of the principal building, and in no case shall the entrance door to a garage be less than 20 feet from any street lot line.
- (d) No accessory building or structure shall be erected before the erection of the principal building or structure on any residential lot.

**Sec. 05.10 Accessory Uses and Buildings in Nonresidential Districts.**

In nonresidential districts, accessory buildings and uses, if not for dwelling purposes, may occupy any of the ground area which the principal building is permitted to cover. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard. Parking of automobiles and other motor vehicles is permitted in the front and side yards in nonresidential districts if screened from a public street by a greenbelt eight feet in width.

**Sec. 05.11 Yard Area for a Building Cannot Be Used for Another Building.**

No space which for the purpose of a building has been counted or calculated as part of a side yard, rear yard, front yard, or other open space required by this Ordinance may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard or other open space requirement of or for any other building. The minimum yards or other open spaces, including lot area per family or percentage of lot coverage required by this Ordinance for

each and every building existing at the time of passage of this Ordinance or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

**Sec. 05.12 Fences, Walls, and Hedges.**

- (a) In any residential district, no fence or portion thereof shall exist within two feet of the front or any street lot line.
- (b) In any residential district, no fence shall be erected which unreasonably obstructs the front yard sight line or is otherwise hazardous.
- (c) All fences shall not be more than four (4) feet in height unless otherwise permitted. No berm shall be used to allow a fence to exceed the maximum allowed height of a fence as measured from the natural grade of land without the berm.
  - (i) R-2 Small Town Residential- all fences in front of the front building line or on the street side(s) of corner lots shall be limited to not more than four (4) feet. All side and rear fences shall be limited to not more than four (4) feet.
  - (ii) R-1 Rural Residential- all fences in front of the front building line or on the street side(s) or corner lots shall be limited to not more than four (4) feet. All side and rear fences shall be limited to not more than six (6) feet.
- (d) Fences or walls required by some federal, State, or other documented regulation to surround and/or enclose public utility installations shall not be limited as to height in any district.
- (e) In all districts which require a front yard, no obstruction in excess of three feet shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting points 25 feet from the intersection of the street right-of-way lines or the projected points thereof.
- (f) Materials: Fences shall be constructed out of any of the following materials: redwood, cedar, or No. 1 pressure treated wood, recycled lumber or vinyl closely resembling wood, wrought iron or aluminum closely resembling wrought iron, stone, brick, concrete with stone or brick veneer, or pre-cast concrete simulated stone or brick. Chain link (galvanized, silver, or black in color) limited to side or rear of properties only. All other materials including but not limited to woven wire or plastic mesh (with or without wooden slats) are prohibited unless otherwise and expressly permitted in the Ordinance.
  - (i) Rural Residential Side and Rear Materials: R-1 side or rear yard fencing

materials may include chain link (galvanized, silver, or black in color). R-1 side or rear yard fencing may incorporate electrical or barbed wire (not razor wire) for the purpose of animal containment.

- (ii) Rural Residential Side and Rear Materials: R-2 Small Town Residential: side or rear yard fencing materials may include chain link (galvanized, silver, or black in color). Chain link and vinyl clad fencing are not permitted for use within the front line of the house.

**Sec. 05.13 Front Yard Exception.**

When a majority of the buildings in any particular block have been built at the time of the adoption of this Ordinance, no building thereafter erected or altered shall project beyond the minimum building line thus established, provided, that no residential building shall be required by this Ordinance to be set back more than 100 feet, and provided further that this regulation shall not be interpreted to reduce the buildable width of a corner lot facing an intersecting street.

**Sec. 05.14 Yard Encroachments.**

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and shall not encroach into the required space for yards or courts or occupied space. However, there shall be permitted certain exceptions to this requirement as limited and restricted hereinafter:

- (a) Permitted exceptions for such projections shall be:
  - (i) One chimney or one fireplace, limited to not more than eight feet in length and projecting not more than 12 inches into the allowable side yard space.
  - (ii) Cornices, limited to not more than 16 inches in width, including the gutter.
  - (iii) Platforms, terraces, steps below the first floor level.
  - (iv) Unenclosed porches or other ground-level, unenclosed projections not over one story in height.
  
- (b) Limitations governing the projections, as so permitted, shall be:
  - (i) In a residential district, such excepted projections shall not extend more than eight feet beyond the established front building line, shall not extend beyond any building line established across the rear of the lot, and shall not extend nearer than five feet to an interior side lot line or nearer than five feet to a side lot line abutting upon a street.

- (ii) In a nonresidential district, such excepted projections shall not extend beyond any established building line.

**Sec. 05.15 Front Yard Uses.**

Any portion of a residential lot located in front of a building line, or between a front street lot line and the adjacent building line, shall be used only for ornamental purposes, and nothing other than signs permitted by this Ordinance, driveways and walkways, as well as trees, shrubs, and other landscaping, shall be placed, erected or planted thereon.

**Sec. 05.16 Double Frontage Lots.**

On double street frontage lots, a front yard, as prescribed for the district, as herein established, shall be provided on both streets.

**Sec. 05.17 Exceptions to Height Limitations.**

Height limitations of this Ordinance shall not apply to chimneys, church spires, clocks or bell towers or other similar architectural design elements, or public monuments, provided that such structures do not exceed 20 feet above the maximum height in the district in which they are located. Architectural features which include building and roof line elements which are intended to add architectural interest and not for the purpose of adding signage to the building may be allowed to exceed the maximum height of the district by not more than 20 feet. The building area encompassed by the proposed building and /or roof line element shall not exceed 25 percent of the footprint of the total structure. The Commission may specify a lower height limit for any structure that requires approval as a Conditional Use. In determining the appropriate height, the Commission shall consider the character of the surrounding uses, the height of surrounding structures, the potential to obscure light or view to or from existing buildings and surrounding properties, and potential detriment to the use or value of surrounding properties.

**Sec. 05.18 Excavations or Holes.**

The construction, maintenance, or existence within the Village of any unprotected, unbarricaded, open, or dangerous excavations, holes, pits, or wells, or of any excavations, holes, or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or general welfare, are hereby prohibited. This section shall not, however, prevent construction of excavations under a permit issued pursuant to this Ordinance or the Building Code, including

review of plans by the Summit Soil and Water Conservation District and applicable State agencies, where such excavations are properly protected and warning signs are posted in such manner as may be approved by the Zoning Officer. This section shall also not apply to lakes, streams, or other natural bodies of water, or to ditches, streams, reservoirs, ponds, or other bodies of water created or existing by authority of the State, County, Village, or any other governmental agency.

**Sec. 05.19 Drainage Channels and Floodplains.**

Drainage channels and floodplains, which exist and which are indicated in the Long Range Plan, are essential for the maintenance of the health, safety, and general welfare of the people of the Village. Any encroachment, filling, or destruction of these drainage channels or floodplains is a violation of this Ordinance; provided, however, that this shall not prevent development of property, when adequate facilities, as determined by the Zoning Officer, are provided to maintain the prime purpose of the drainage channel or flood plain, i.e. the uninterrupted flow of surface water. Said development shall be, among other things, done in compliance with all applicable Village regulations.